

AMENDED IN SENATE JULY 18, 2001

AMENDED IN SENATE JULY 5, 2001

AMENDED IN SENATE JUNE 13, 2001

AMENDED IN ASSEMBLY MAY 1, 2001

AMENDED IN ASSEMBLY APRIL 16, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1453

Introduced by Assembly Member Koretz
(Principal coauthor: Assembly Member Vargas)
(Coauthors: Assembly Members Chan and Jackson)
(Coauthors: Senators Kuehl and Romero)

February 23, 2001

An act to add Sections 22963, 22964, and 22965 to the Business and Professions Code, relating to tobacco products.

LEGISLATIVE COUNSEL'S DIGEST

AB 1453, as amended, Koretz. Tobacco: display and use limitations.

Existing law provides for the establishment of programs relating to tobacco use prevention.

This bill would prohibit any person, firm, or corporation from displaying or making available any ashtrays *or other receptacles designed for tobacco-related waste* for ~~public~~ use on the premises where smoking is prohibited with specified exceptions, and would impose either a civil penalty or subject the person, firm, or corporation

to a citation for an infraction with escalating fines for subsequent violations. By creating new infractions, the bill would impose additional duties on local law enforcement agencies, thus creating a state-mandated local program.

This bill would also prohibit the distribution of free samples of tobacco products by mail to anyone who has not been previously identified as a consumer of tobacco products who is 18 years of age or older and would impose civil penalties for each violation of this provision.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22963 is added to the Business and
2 Professions Code, to read:

3 22963. (a) Except as provided in subdivisions (b) and (c), no
4 person, firm, or corporation shall display or make available
5 ashtrays, ~~for public~~ *or other receptacles designed for*
6 *tobacco-related waste* for use on the premises where smoking is
7 prohibited under existing state law.

8 (b) Notwithstanding subdivision (a), a receptacle for
9 tobacco-related waste may be placed within five feet of a door
10 available for public entry onto the premises.

11 (c) Notwithstanding subdivision (a), ashtrays; may be sold or
12 distributed to the public on premises where smoking is prohibited
13 but only for use in areas where smoking is not prohibited.

14 (d) Any person, firm, or corporation who is in violation of
15 subdivision (a) shall be subject to either of the following:

16 (1) A civil penalty assessed by the State Department of Health
17 Services for each violation according to the following schedule:

18 (A) A civil penalty of two hundred fifty dollars (\$250) for the
19 first violation.



1 (B) A civil penalty of five hundred dollars (\$500) for the
2 second violation at the same location within a five-year period.

3 (C) A civil penalty of one thousand dollars (\$1,000) for the
4 third or subsequent violation at the same location within a
5 five-year period.

6 (2) A citation by local police, sheriff, or code enforcement
7 personnel for committing a public offense punishable as an
8 infraction by a fine subject to the following schedule:

9 (A) For a first offense, punishable by a fine of two hundred fifty
10 dollars (\$250).

11 (B) For a second offense at the same location within a five-year
12 period, punishable by a fine of five hundred dollars (\$500).

13 (C) For a third or subsequent offense at the same location
14 within a five-year period, punishable by a fine of one thousand
15 dollars (\$1,000).

16 SEC. 2. Section 22964 is added to the Business and
17 Professions Code, to read:

18 22964. (a) No person, firm, or corporation shall provide free
19 samples of any tobacco product by mail to anyone who has not
20 been previously identified as a consumer of tobacco products who
21 is 18 years of age or older.

22 (b) Each mailing of a tobacco product to any person who has
23 not been previously identified as a consumer of tobacco products
24 who is 18 years of age or older shall constitute a separate violation
25 of subdivision (a) and shall be subject to the civil penalty as
26 provided in subdivision (c).

27 (c) The State Department of Health Services shall assess a civil
28 penalty of two hundred fifty dollars (\$250) for each separate
29 violation of subdivision (a).

30 SEC. 3. Section 22965 is added to the Business and
31 Professions Code, to read:

32 22965. (a) Sections 22963 and 22964 shall not preempt or
33 otherwise prohibit the adoption of a local standard that imposes
34 greater restrictions on the promotion of, use or access to tobacco
35 products than the restrictions imposed by this division.

36 (b) To the extent that there is an inconsistency between
37 Sections 22963 and 22964 and a local standard that imposes
38 greater restrictions on the promotion of, or the use or access to,
39 tobacco products, the greater restriction on the promotion of, or;

1 use or access to, tobacco products in the local standard shall
2 prevail.

3 SEC. 4. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.

